

Date of decision: 28-2-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.K. KESHOTE, J
(28-2-1996)

ORAL JUDGMENT:

Mr. Girish Patel for the petitioner.
None present for the respondents.

Heard the learned counsel for the petitioner. The petitioner has, by this petition, challenged the resolution dated 30th December, 1989 at annexure-D. Under the said resolution the Corporation has decided to fill up the post

of Honorary Professor of Neurology by open selection. The petitioner was appointed as full time Assistant Professor of Neurology on 2-9-1976 at the V.S.Hospital run by respondent No.1- Ahmedabad Municipal Corporation. Later on, under order dated 31st August, 1979 the petitioner was made Honorary Assistant Professor of Medicine (Neurology). The learned counsel for the petitioner contended that as per the policy of promotion, the channel of promotion runs from the post of Assistant Professor to Associate Professor and from Associate Professor to Professor. Assistant Professor of Neurology can also be directly promoted to the post of Honorary Professor after gaining ten years' experience. Learned counsel for the petitioner contended that after ten years of service the petitioner has acquired the eligibility for promotion to the post of Honorary Professor, but at that point of time no post of Honorary Professor of Neurology was vacant. Now the mode of recruitment to the post of Honorary Professor has been changed from promotion to direct recruitment which will affect the right of promotion of the petitioner.

2. I do not find any substance in the writ petition. Right of consideration for promotion is a fundamental right. But there is no right of promotion. The petitioner, under the existing policy of the Corporation, may have a right for consideration for promotion. Right for consideration for promotion is a service condition, but mere chance of promotion is not a service condition. The petitioner might have had a chance for promotion till the policy of promotion was changed. But by change of policy of recruitment to the post of Honorary Professor from promotion to direct recruitment, it does not affect the right of the petitioner or his service condition. No right whatsoever had accrued in favour of the petitioner. It is for the appointing authority to decide the mode of recruitment for the post. Mere change of mode of recruitment may affect the chance of promotion of the petitioner, but it cannot be said to be a case of violation of any accrued right or service condition.

3. In the result this writ petition fails and the same is dismissed. Rule discharged. Interim relief stands vacated.